WP(C) 6813/2005

BEFORE

THE HON'BLE MR JUSTICE A H SAIKIA

Heard learned counsel for the parties.

The basic grievance so canvassed in this writ petition is that petitioners who have been working as assistant teaches in their respective High Schools under Kamrup District, have been denied their regular salary, although their appointments have been duly approved by a decision of this Court in W.P(C)No. 6221/2001 (Syed Nurul Islam Ahmed and others -Vs-State of Assam and others disposed of on 21.8.2002).

On close perusal of the materials available on record including the averments made in this writ petition with all the Annexures appended thereto as well as the judgment and order dated 21.8.2002 passed by this Court as referred above and the counter affidavit so placed on record on behalf of the official respondents including the Education Department and Finance Department, it appears that initially the petitioners approached this Court through W.P(C)No. 6221/2001 seeking issuance of direction to the official Respondents to appoint them as assistant teachers in their respective High Schools. Considering the prayer made on behalf of the petitioners as well as on careful scrutiny of the entire materials made available before the Court including the responses filed on behalf of the official respondents therein, this Court came to finding, recorded in paragraphs 12 and 13 of the judgment, to the effect that petitioners were entitled to receive appointment orders from the respondents if vacancies existed during the relevant period, the relevant period being the period between the date when the select list was published and the date when the validity of the select list expired by efflux of time and appointment of assistant teachers out of the select list aforementioned shall be made in accordance with the merit position of the subject. Pertinent it to mention that the said judicial pronouncement was admittedly never challenged by the official respondents in the appellate forum and the same has, therefore, attained its finality.

Notwithstanding such direction rendered in the above cited cases, the petitioners were deprived of their regular appointment. In fact, they were compelled to approach this Court by filing a Contempt Case No. 422/03. However during the pendency of the contempt petition, the petitioners were appointed as Assistant Teachers in their respective High Schools in a fixed pay of Rs.2500/- p.m. Under such circumstances it has been pleaded in this writ petition that once the petitioners have been declared to be entitled to for appointment and accordingly they have been appointed as assistant teachers, the respondents may be directed to give their scale of pay at the rate of Rs.1375/- to 3375/- p.m.

Having regard to the case cited above and upon careful consideration of the facts and circumstances of the case in its entirety this Court is firmly of the opinion , that the petitioners are entitled to get their salary. However, since the petitioners have failed to indicate herein the date from which they be paid their salary in the scale above mentioned, this Court is inclined to direct the authorities to give them pay scale @Rs.1375/- to 3375/- p.m. from the month of January, 2006. It is ordered accordingly.

In the result, the writ petition succeeds and stands allowed. No costs.